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Continental Congress, December 6, 1775

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CONTINENTAL CONGRESS, DECEMBER 6, 1775.

Wednesday, December 6, 1775.

The Committee of Claims reported, that there is due to *Robert Erwin*, for Wagon hire, the sum of 355.7 Dollars.

Ordered, That the said Account be paid.

Upon motion made, *Resolved*, That the three Prisoners taken by Captain *A. Whipple*, and who are now on board his Vessel, be delivered to the Committee of Safety of the Colony of *Pennsylvania*, who are directed to secure them in safe custody in some Jail in said Colony.

A Return being laid before Congress of the number of Flints in this City, amounting to upwards of two hundred thousand,

On motion made, *Resolved*, That the Committee of In-spection of this City be desired to purchase the said Flints, for the use of the Continent ; and that, in making the purchase, attention be paid to the Resolution of Congress, against raising the prices of Goods.

The Congress resumed the consideration of the Instructions to be given to the Committee of Claims; on motion made, and question put,

Resolved, That the charge for Bounty, in the Account exhibited by *Rhode-Island* against the Continent, be not allowed.

The Committee to whom the Petition of Captain *Dugal McGregor* was referred brought in their Report, which, being read, was agreed to, as follows, viz :

Resolved, That it is the opinion of the Committee, that the circumstances stated in the said Petition will not justify a license to export the said Lumber and Naval Stores, contrary to the rules of the *American Association*.

Resolved, That if the said *Dugal McGregor* will give bond, with sufficient security, in a penalty of double the value of the said Lumber and Naval Stores, to the President of the Provincial Council of *North-Carolina*, with condition that he will not carry the said Cargo to *Great Britain, Ireland, Guernsey, Jersey, Sark, Alderney, or Man*, or any *European* Island or settlement within the British Dominions, nor to the *British West-Indies*; and that he shall, within six months after exporting the same, import into *Edenton, Newbern, or Bogue Inlet*, in the Colony of *North-Carolina*, and there deliver to the Commander of the Continental Troops in the said Colony, such quantity of Muskets or Gunpowder as shall be equal to the value of the said Lumber and Naval Stores, the publick interest requires that lie be permitted to export the same; and that a permit for that purpose, signed by the said President, be given him, on his executing such bond as aforesaid.

The Congress resumed the consideration of the Report of the Committee on Proclamations, which being debated by paragraphs, was agreed to, as follows:

We, the Delegates of the thirteen *United Colonies* in *North-America* have taken into our most serious consideration a Proclamation, issued from the Court of St. *James's* on the 23d day of *August* last. The name of Majesty is used to give it a sanction and influence, and, on that account, it becomes a matter of importance to wipe off, in the name of the People of these *United Colonies*, the aspersions which it is calculated to throw upon our cause, and to prevent, as far as possible, the undeserved punishments which it is designed to prepare for our friends. We are accused of “forgetting the allegiance which we owe to the power that has protected and sustained us.” Why all this ambiguity and obscurity in what ought to be so plain and obvious as that he who runs may read it ? What allegiance is it that we forget? Allegiance to Parliament? We never owed, we never owned it. Allegiance to our King ? Our words have ever avowed it; our conduct has ever been consistent with it. We condemn, and, with arms in our hands, (a resource which freemen will never part with,) we oppose the claim and exercise of unconstitutional powers, to which neither the Crown nor Parliament were ever entitled. By the *British* Constitution, our best

inheritance, rights as well as duties descend upon us. We cannot violate the latter by defending the former. We should act in diametrical opposition to both, if we permitted the claims of the *British* Parliament to be established, and the measures pursued, in consequence of those claims, to be carried into execution among us. Our sagacious ancestors provided mounds against the inundation of tyranny and law-less power on one side, as well as against that of faction and licentiousness on the other. On which side has the breach been made? Is it objected against us, by the most inveterate and the most uncandid of our enemies, that we have opposed any of the just prerogatives of the Crown, or any legal exertion of those prerogatives? Why, then, are we accused of forgetting our allegiance? We have performed our duty. We have resisted in those cases in which the right to resist is stipulated as expressly, on our part, as the right to govern is, in other cases, stipulated on the part of the Crown. The breach of allegiance is removed from our resistance, as far as tyranny is removed from legal government. It is alleged that "we have proceeded to an open and avowed rebellion." In what does this rebellion consist? It is thus described: "Arraying ourselves in hostile manner, to withstand the execution of the law, and traitorously preparing, ordering, and levying war against the King." We know of no laws binding on us, but such as have been transmitted to us by our ancestors, and such as have been consented to by ourselves, or our representatives elected for that purpose. What laws, stamped with these characters, have we withstood? We have, indeed, defended them, and we will risk every thing, do every thing, and suffer every thing, in their defence. To support our laws, and our liberties established by our laws, we have prepared, ordered, and levied war. But is this traitorously, or against the King? We view him as the Constitution represents him; that tells us he can do no wrong. The cruel and illegal attacks, which we oppose, have no foundation in the royal authority. We will not, on our part, lose the distinction between the King and his Ministers. Happy would it have been for some former princes, had it always been preserved on the part of the Crown.

Besides all this, we observe, on this part of the Proclamation, that "rebellion" is a term undefined and unknown in the law; it might have been expected that a Proclamation, which by the *British* Constitution has no other operation than merely that of enforcing what is already law, would have had a known legal basis to have rested upon. A correspondence between the inhabitants of *Great Britain* and their brethren in *America* produced, in better times, much satisfaction to individuals, and much advantage to the publick. By what criterion shall one who is unwilling to break off this correspondence, and is, at the same time, anxious not to expose himself to the dreadful consequences threatened in this Proclamation—by what criterion shall he regulate his conduct? He is admonished not to carry on correspondence with the persons now in rebellion in the Colonies. How shall he ascertain "who are in rebellion and who are not?" He consults the law, to learn the nature of the supposed crime: the law is silent upon the subject. This, in a country where it has been often said, and formerly with justice, that the Government is by law, and not by men, might render him perfectly easy. But Proclamations have been sometimes dangerous engines in the hands of those in power; information is commanded to be given, to one of the Secretaries of State, of all persons "who shall be found carrying on correspondence with the persons in rebellion, in order to bring to condign punishment the authors, perpetrators, or abettors, of such dangerous designs." Let us suppose, for a moment, that some persons in the Colonies are in rebellion, and that those who carry on correspondence with them might learn, by some rule which *Britons* are bound to know, how to discriminate them, does it follow that all correspondence with them deserves to be punished? It might have been intended to apprize them of their danger, and to reclaim them from their crimes. By what law does a correspondence with a criminal transfer or communicate his

guilt? We know that those who aid and adhere to the King's enemies, and those who correspond with them in order to enable them to carry their designs into effect, are criminal in the eye of the law. But the law goes no farther. Can Proclamations, according to the principles of reason and justice, and the Constitution, go farther than the law?

But perhaps the principles of reason and justice, and the Constitution, will not prevail: experience suggests to us the doubt. If they should not, we must resort to arguments drawn from a very different source. We, therefore, in the name of the People of these *United Colonies*, and by authority, according to the purest maxims of representation, derived from them, declare, that whatever punishment shall be inflicted upon any persons in the power of our enemies, for favouring, aiding, or abetting the cause of *American* liberty, shall be retaliated in the same kind and the same degree upon those in our power, who have favoured, aided, or abetted, or shall favour, aid, or abet, the system of ministerial oppression. The essential difference between our cause and that of our enemies might justify a severer punishment; the law of retaliation will unquestionably warrant one equally severe.

We mean not, however, by this declaration, to occasion or to multiply punishments; our sole view is to prevent them. In this unhappy and unnatural controversy, in which *Britons* fight against *Britons* and the descendants of *Britons*, let the calamities immediately incident to a civil war suffice. We hope additions will not, from wantonness, be made to them on one side; we shall regret the necessity, if laid under the necessity, of making them on the other.

Ordered, That the above be published.

A Petition and Memorial from Colonel *J. Bull* was presented to Congress and read.

Resolved, That the same be taken into consideration on *Friday* next.

On motion made, *Resolved*, That Lieutenant *Jocelyn Feltham* have leave to join the officers of the Twenty-Sixth Regiment, and reside with them, in the places destined for their reception.

On motion made, *Resolved*, That Major *Preston* and the Officer with him remain in *Philadelphia* until further orders from this Congress.

Ordered, That the President inform Major *Preston* of the foregoing Resolution.

A Letter from General *Washington*, dated 28th *November*, being received, was read.

Resolved, That the same be taken into consideration to-morrow morning.

The several matters to this day referred being post-poned,

Adjourned to nine o'clock, to-morrow.

